

EXHIBIT “B”

COMPLAINT FOR DAMAGES

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ENDORSED

2016 MAY 24 A 10:18

FILED
Sharon Ulleselt

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
UNLIMITED JURISDICTION

16CV295527

Carlos Olmos Gonzalez,
Plaintiffs,
vs.
Equifax Inc.; TransUnion Corp.
and DOES 1-50
Defendants

Case No.: [Number]
Violations of:
1. 15 U.S.C. § 1681 et seq.
2. Cal. Civ. Code § 1785 et seq.
3. Cal. B & P Code § 17200 et seq.

FILED BY FAX

INTRODUCTION

1. Plaintiff Carlos Olmos Gonzalez brings this action as a result of Defendants TransUnion Corp. and Equifax Inc.'s failure to comply with their obligation under both federal and state fair credit reporting acts to follow reasonable procedures to assure maximum possible accuracy of information regarding a consumer to reinvestigate or delete

Complaint

1 disputed information that is either inaccurate or
2 incomplete. As a result of Defendants' conduct, Plaintiff,
3 a disabled senior citizen has been denied credit, housing
4 and suffered physical and emotional harm.

5 **PARTIES**

6 2. Plaintiff Carlos Olmos Gonzalez is a natural person who
7 resides in Santa Clara County, California. Plaintiff is a
8 "consumer" as defined under 15 U.S.C. § 1681a(c); a "senior
9 citizen" as defined under Cal. Civil Code § 1761(f); and a
10 "disabled person" as defined under Cal. Civil Code §
11 1761(g).

12 3. Defendant Equifax Inc. ("Equifax") is a corporation
13 incorporated under the laws of the state of Georgia,
14 authorized to business in the state of California.
15 Defendant Equifax is a "consumer reporting agency" as
16 defined in 15 U.S.C. § 1681a(f). Equifax is regularly
17 engaged in the business of assembling, evaluation and
18 distributing information concerning consumers for the
19 purpose of furnishing consumer reports as defined under 15
20 U.S.C. § 1681(d) to third parties. Further Equifax is
21 "Consumer credit reporting agency" as defined under Cal.
22 Civ. Code § 1785.3(d). Equifax, for monetary fees, dues, or
23 on a cooperative nonprofit basis, regularly engages in
24 whole or in part in the business of assembling or
25 evaluating consumer credit information or other information
26 on consumers for the purpose of furnishing consumer credit
27 reports to third parties.
28

- 1 4. Defendant TransUnion Corp. ("TransUnion") is a corporation
2 incorporated und the laws of the state of Delaware,
3 authorized to business in the state of California.
4 Defendant TransUnion is a "consumer reporting agency" as
5 defined in 15 U.S.C. § 1681a(f). TransUnion is regularly
6 engaged in the business of assembling, evaluation and
7 distributing information concerning consumers for the
8 purpose of furnishing consumer reports as defined under 15
9 U.S.C. § 1681(d) to third parties. Further TransUnion is
10 "Consumer credit reporting agency" as defined under Cal.
11 Civ. Code § 1785.3(d). TransUnion, for monetary fees, dues,
12 or on a cooperative nonprofit basis, regularly engages in
13 whole or in part in the business of assembling or
14 evaluating consumer credit information or other information
15 on consumers for the purpose of furnishing consumer credit
16 reports to third parties.
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- 18 5. The true names and capacities of the Defendants, DOES 1
19 through 50, inclusive, whether individual, corporate,
20 associate or otherwise, are unknown to Plaintiff at the
21 time of filing this Complaint and Plaintiff therefore sue
22 said Defendants by such fictitious names and will ask leave
23 of court to amend this Complaint to show their true names
24 or capacities when the names have been ascertained.
25 Plaintiff is informed and believes, and thereon, alleges,
26 that each of the DOE Defendants is, in some manner,
27 responsible for the events and happenings herein set forth
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1 and proximately caused injury and damages to Plaintiff as
2 herein alleged.

3 6. At all times here mentioned, each of the Defendants were the
4 agent and employee of each of the remaining Defendants, and
5 were, at all times herein mentioned, acting within the
6 scope of said agency and employment. Any reference
7 hereinafter to "DEFENDANTS" without further qualification
8 is meant by Plaintiff to refer to each Defendant named
9 above.

10
11 **FACTS**

12 7. Based upon information and belief, the following paragraphs
13 are alleged: 3-6, 17-24, 26-40.

14 8. In 2013 Plaintiff applied for an extension of credit with GE
15 Capital Retail Bank.

16 9. In December of 2013 Plaintiff was denied an extension of
17 credit with GE Capital Bank due to negative entries that
18 were reported in DEFENDANTS' credit report of Plaintiff.

19 10. Since 2013, Plaintiff has applied on multiple occasions for
20 the hiring of a dwelling unit for Plaintiff's primary
21 residence and was subsequently denied a dwelling unit for
22 Plaintiff's primary residence due to negative entries
23 reported in DEFENDANTS' credit report and file of
24 Plaintiff.

25 11. The negative entries listed in DEFENDANTS' credit reports
26 and file of Plaintiff contains inaccurate and incomplete
27 information.
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1 12. On November 24, 2015, Plaintiff, through his attorney, sent
2 DEFENDANTS a written request, by certified mail, return
3 receipt, to conduct a reinvestigation on inaccurate and
4 incomplete information in DEFENDANTS' credit reports and
5 file of Plaintiff. Plaintiff identified the specific
6 information that was inaccurate or incomplete.

7 13. DEFENDANTS received Plaintiff's written request to conduct
8 a reinvestigation on the inaccurate and incomplete
9 information in DEFENDANTS' credit reports and file of
10 Plaintiff.

11 14. DEFENDANTS have not responded to Plaintiff's written
12 request to conduct a reinvestigation on the inaccurate and
13 incomplete information in DEFENDANTS' credit reports and
14 file of Plaintiff.

15 15. DEFENDANTS have not provided a notice or confirmation of
16 the deletion of the inaccurate and incomplete information
17 in DEFENDANTS' credit report and file of Plaintiff to
18 Plaintiff.

19 16. DEFENDANTS have not provide a consumer report on Plaintiff
20 based upon DEFENDANTS' file of Plaintiff after the deletion
21 of the inaccurate and incomplete information in DEFENDANTS
22 file of Plaintiff to Plaintiff.

23 17. DEFENDANTS have continually added, stored, maintained and
24 disseminated personal and credit data about the Plaintiff
25 which is false, erroneous and misleading without employing
26 procedures to insure the maximum possible accuracy of the
27
28

1 information posted to Plaintiff's consumer report(s) and
2 disseminated.

3 18. DEFENDANTS have continually mis-merged credit data
4 attributable to other persons with the consumer report(s)
5 of Plaintiff.

6 19. DEFENDANTS have failed to utilize a search algorithm which
7 is capable of distinguishing between persons with different
8 personal identifiers.

9 20. DEFENDANTS have continually posted false and harmful
10 information to Plaintiff's consumer reports without
11 requiring a reasonable number of points of correspondence.

12 21. DEFENDANTS have failed to invoke necessary functions,
13 procedures or programs designed to insure that false data
14 and/or data attributable to other persons would not post to
15 Plaintiff's consumer report and would be suppressed from
16 appearing on plaintiff's consumer reports.

17 22. DEFENDANTS failed to employ reasonable procedures to timely
18 and properly reinvestigate the accuracy of the erroneous,
19 negative data upon being notified by Plaintiff and/or
20 subscribers that such information was erroneous.

21 23. DEFENDANTS have maliciously and/or with willful intent to
22 injure, defamed Plaintiff and invaded Plaintiff's
23 legitimate expectation of privacy.

24 24. DEFENDANTS knew or should have known their conduct was
25 directed towards a senior citizen or disabled person.
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1 25. Plaintiff has been suffered substantial physical and
2 emotional distress and continues to suffer harm from
3 Defendant's conduct.

4 **FIRST CAUSE OF ACTION**
5 **(15 U.S.C. § 1681 et seq.**
6 **Fair Credit Reporting Act ("FCRA"))**
(Against all Defendants)

7 26. Plaintiffs reallege and incorporate paragraphs one thru
8 twenty-five herein.

9 27. DEFENDANTS violated 15 U.S.C. § 1681e(b) by failing to
10 establish or to follow reasonable procedures to assure
11 maximum possible accuracy in the preparation of the credit
12 report and credit files it published and maintains
13 concerning the Plaintiff.

14 28. DEFENDANTS violated 15 U.S.C. § 1681i by failing to delete
15 inaccurate information in Plaintiff's credit file after
16 receiving actual written notice of such inaccuracies.

17 29. DEFENDANTS violated 15 U.S.C. § 1681i by failing to conduct
18 a reasonable reinvestigation after receiving a notice of
19 dispute by the consumer to determine if the disputed
20 information is inaccurate and record the current status of
21 the disputed information.

22 30. DEFENDANTS violated 15 U.S.C. § 1681i failing to provide
23 written notice to Plaintiff of a reinvestigation, either
24 for determining if a dispute is frivolous or irrelevant or
25 of the results of the reinvestigation.

26 31. DEFENDANTS violated 15 US.C. § 1681i by failing to provide
27 notice of the deletion of disputed information.
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1 32. DEFENDANTS violations of § 1681 et seq. were done with
2 willfully intent or with reckless disregard to Plaintiff's
3 rights and the foreseeable harm that such conduct could and
4 did directly cause harm.

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6 **SECOND CAUSE OF ACTION**
7 **(California Civil Code § 1785 et seq.**
8 **Consumer Credit Reporting Agencies Act ("CCRAA"))**
9 **(Against all Defendants)**

10 33. Plaintiff's reallege and incorporate paragraphs one thru
11 thirty-two herein.

12 34. DEFENDANTS violated §1785.16(a) by failing to reinvestigate
13 and record the current status of the disputed information
14 within 30 businesses days from receiving notice of the
15 disputed information.

16 35. DEFENDANTS violated § 1785.16(d) by failing to provide a
17 written notice in compliance with § 1785.16(d) to the
18 consumer of the results of any reinvestigation within five
19 days of completion of the reinvestigation.

20 36. DEFENDANTS violated § 1785.16(j) by failing to provide
21 verification of deletion of disputed information pursuant
22 to § 1785.16(j) in writing to Plaintiff within 5 business
23 days of the deletion of the disputed information.

24 37. DEFENDANTS violations of §1785 et seq. were done with
25 willfully intent or with reckless disregard to Plaintiff's
26 rights and the foreseeable harm that such conduct could and
27 did directly cause.

28 **THIRD CAUSE OF ACTION**
(Violation of Ca. Bus. & Prof. Code §17200 et seq.

Complaint

**Unfair Competition Law)
(Against all Defendants)**

38. Plaintiff's reallege and incorporate paragraphs one thru
thirty-seven herein.

39. DEFENDANTS above conduct constitutes an "unlawful" business
practices and acts.

40. DEFENDANTS "unlawful" business practices violations of were
done with willfully intent or with reckless disregard to
Plaintiff's rights and the foreseeable harm that such
conduct could and did directly cause.

PRAYER FOR RELIEF

41. Plaintiffs reallege and incorporate paragraphs one thru
forty herein.

42. Plaintiff respectfully requests that this court:

With respect to the **FIRST CAUSE OF ACTION (15 U.S.C. 1681
et seq.)**

i. For DEFENDANTS' willful violations 15 U.S.C. § 1681 et
seq.:

a. The greater of actual damages sustained by Plaintiff
as a result of DEFENDANTS' failures, as assed by the trier
of fact, or statutory damages in the amount of \$1,000

pursuant to 15 U.S.C. § 1681n(a)(1)(A);

b. Punitive damages pursuant to 15 U.S.C. 1681n(a)(2);

c. Costs and reasonable attorney's fees pursuant to 15
U.S.C. § 1681n(a)(3).

1 ii. For DEFENDANTS negligent violations of 15 U.S.C. § 1681 et
2 seq.:

3 a. Actual damages sustained by Plaintiff as a result of
4 DEFENDANTS' failures, as assed by the trier of fact,
5 pursuant to 15 U.S.C. § 1681o(a)(1);

6 b. Costs and reasonable attorney's fees pursuant to
7 15 U.S.C. § 1681o(a)(2).

8
9 iii. Additional penalty of trebling of any fine, civil penalty,
10 or other penalty, or any other remedy the purpose or effect
11 is to punish or deter pursuant to Cal. Civil Code §
12 3345(b).

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14 iv. Any other relief that the court deems proper.
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16 With respect to the **SECOND CAUSE OF ACTION** (Cal. Civ. Code
17 **§ 1785 et seq.**)

18 i. For DEFENDANTS' willful violations of Cal. Civ. Code § 1785
19 et seq.:

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21 a. Actual damages sustained by Plaintiff as a result of
22 DEFENDANTS' failures, as assed by the trier of fact
23 pursuant to §1785.31(a)(2)(A).

24 b. Costs and Attorney's fees pursuant to
25 §1785.31(a)(2)(A).

26
27 c. Punitive damages for each violation as the court deems
28 proper, pursuant to §1785.31(a)(2)(B).

d. Any other relief that the court deems proper.

ii. For DEFENDANTS negligent violations of Cal. Civ. Code § 1785 et seq.:

a. Actual damages sustained by Plaintiff as a result of DEFENDANTS' failures, as assessed by the trier of fact pursuant to §1785.31(a)(1);

b. Costs and Attorney's fees pursuant to §1785.31(a)(1).

iii. Additional penalty of trebling of any fine, civil penalty, or other penalty, or any other remedy the purpose or effect is to punish or deter pursuant to Cal. Civil Code § 3345(b).

iv. Any other relief that the court deems proper.

With respect to the **THIRD CAUSE OF ACTION (Cal. Business and Professions Code § 17200 et seq.)**

i. An order from this court to remove inaccurate and incomplete information.

ii. An order from this court prohibiting DEFENDANTS from re-entering removed inaccurate and incomplete information.

iii. Cost of suit.

iv. Any other relief that the court deems proper.

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3 Respectfully submitted,
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6 Dated this ²³~~28~~ of May 2016
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10 Alexander S. Rusnak (CSB# 300054)
11 Attorney for Plaintiffs
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Complaint